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LOS ANGELES WATERKEEPER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LOS ANGELES WATERKEEPER, a
California non-profit corporation,

Plaintiff,

vs.

A AND A METAL RECYCLING, INC., a
California corporation; SINDY CARDONA,
an individual;

Defendants.

Civil Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

**(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 *et seq.*)**

1 Los Angeles Waterkeeper (“Waterkeeper” or “Plaintiff”), by and through its
2 counsel, hereby alleges:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provision of
5 the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (“Clean Water Act”
6 or “CWA”). *See* 33 U.S.C. § 1365. This Court has subject matter jurisdiction over the
7 parties and this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C. §§ 1331 and
8 2201 (an action for declaratory and injunctive relief arising under the Constitution and
9 laws of the United States).

10 2. On 9 March 2015, Waterkeeper issued a sixty (60) day notice of intent to sue
11 (“Notice Letter”) to A and A Metal Recycling, Inc., also known as KSI Metals, and Sindy
12 Cardona (collectively “Defendants”). The Notice Letter informed the Defendants of their
13 violations of the California General Permit for Discharges of Storm Water Associated
14 with Industrial Activities (*National Pollutant Discharge Elimination System* (“NPDES”)
15 *General Permit No. CAS000001, State Water Resources Control Board Water Quality*
16 *Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ*) (hereinafter “Storm
17 Water Permit”) and the Clean Water Act. The Notice Letter also informed Defendants of
18 Waterkeeper’s intent to file suit against them to enforce the Storm Water Permit and the
19 Clean Water Act.

20 3. The Notice Letter was sent to the registered agents for Defendants, the
21 Administrator of the United States Environmental Protection Agency (“EPA”), the
22 Administrator of EPA Region IX, the Executive Director of the State Water Resources
23 Control Board (“State Board”), and the Executive Officer of the Regional Water Quality
24 Control Board, Los Angeles Region (“Regional Board”), as required by 40 C.F.R. §
25 135.2(a)(1). The Notice Letter is attached hereto as Exhibit A and is incorporated herein
26 by reference.

27 4. More than sixty (60) days have passed since the Notice Letter was served on
28 Defendants and the state and federal agencies. Plaintiff is informed and believes, and

1 thereon alleges, that neither the EPA nor the State of California has commenced or is
2 diligently prosecuting an action to redress the violations alleged in this Complaint. *See* 33
3 U.S.C. § 1365(b)(1)(B). This action is not barred by any prior administrative penalty
4 under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g).

5 5. Venue is proper in the Central District of California pursuant to Section
6 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the sources of the
7 violations are located within this judicial district.

8 6. Defendants' violations of the procedural and substantive requirements of the
9 Storm Water Permit and the Clean Water Act alleged in this Complaint are ongoing and
10 continuous.

11 **II. INTRODUCTION**

12 7. This Complaint seeks relief for Defendants' substantive and procedural
13 violations of the Storm Water Permit and the Clean Water Act resulting from
14 Defendants' operations at 2821 East Washington Boulevard, Los Angeles, California
15 90023 ("A and A Facility" or "Facility").

16 8. With every storm event, hundreds of millions of gallons of polluted
17 rainwater, originating from industrial operations such as the A and A Facility, pour into
18 Los Angeles area waters. The consensus among agencies and water quality specialists is
19 that storm water pollution accounts for more than half of the total pollution entering
20 marine and river environments each year. Los Angeles area waters are ecologically
21 sensitive areas and are essential habitat for dozens of fish and bird species as well as
22 macro-invertebrate and invertebrate species. Storm water and non-stormwater
23 contaminated with sediment, heavy metals, and other pollutants harm the special
24 aesthetic and recreational significance that Los Angeles area waters have for people in
25 the surrounding communities. The public's use of Los Angeles area waters for water
26 contact sports exposes many people to toxic metals and other contaminants in storm
27 water and non-stormwater discharges. Non-contact recreation and aesthetic opportunities,
28 such as wildlife observation, are also impaired by polluted discharges into Los Angeles

1 area waters.

2 **III. PARTIES**

3 **A. Los Angeles Waterkeeper.**

4 9. Los Angeles Waterkeeper is a non-profit public benefit corporation
5 organized under the laws of the State of California with its office at 120 Broadway, Suite
6 105, Santa Monica, California 90401.

7 10. Founded in 1993, Waterkeeper has approximately 3,000 members who live
8 and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the
9 preservation, protection, and defense of the environment, wildlife, and natural resources
10 of rivers, creeks, and coastal waters of Los Angeles County from all sources of pollution
11 and degradation. To further this mission, Waterkeeper actively seeks federal and state
12 implementation of the Clean Water Act. When necessary, Waterkeeper directly initiates
13 enforcement actions on behalf of itself and its members.

14 11. Waterkeeper's members use and enjoy the waters into which Defendants
15 discharge polluted storm water. These waters include the Los Angeles River, Los
16 Angeles River Estuary, Los Angeles/Long Beach Harbor, San Pedro Bay, Long Beach
17 City Beach, and the Pacific Ocean (collectively "Receiving Waters"). Waterkeeper's
18 members use and enjoy the Receiving Waters for fishing, boating, wading, swimming,
19 diving, bird watching, picnicking, viewing wildlife, sailing, kayaking, hiking, biking,
20 engaging in scientific study, monitoring the watershed, and/or conducting watershed
21 restoration.

22 12. Discharges of polluted storm water from the A and A Facility degrade water
23 quality, harm aquatic life in the Receiving Waters, and impair Waterkeeper's members'
24 use and enjoyment of the Receiving Waters.

25 13. Defendants' polluted discharges from the A and A Facility are ongoing and
26 continuous. Thus, the interests of Waterkeeper's members have been, are being, and will
27 continue to be adversely affected by Defendants' failure to comply with the Clean Water
28 Act and the Storm Water Permit.

B. The A and A Facility Owners and/or Operators.

14. Waterkeeper is informed and believes, and thereon alleges, that A and A Metal Recycling, Inc., is an operator of the A and A Facility.

15. Waterkeeper is informed and believes, and thereon alleges, that A and A Metal Recycling, Inc., has operated the A and A Facility since at least 20 April 2012.

16. Waterkeeper is informed and believes, and thereon alleges, that A and A Metal Recycling, Inc., is an owner of the A and A Facility.

17. Waterkeeper is informed and believes, and thereon alleges, that A and A Metal Recycling, Inc., has owned the A and A Facility since at least 20 April 2012.

18. Waterkeeper is informed and believes, and thereon alleges, that A and A Metal Recycling, Inc., is an active corporation registered in California.

19. Waterkeeper is informed and believes, and thereon alleges, that the Registered Agent for A and A Metal Recycling, Inc., is Sindy Cardona Escobar, 5535 Alba Street, Los Angeles, California 90058.

20. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona is an owner of A and A Metal Recycling, Inc.

21. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona has owned A and A Metal Recycling, Inc., since at least 20 April 2012.

22. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona is the President of A and A Metal Recycling, Inc.

23. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona has been President of A and A Metal Recycling, Inc., since at least 20 April 2012.

24. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona is also known as Sindy Cardona Escobar.

25. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona is an operator of the A and A Facility.

26. Waterkeeper is informed and believes, and thereon alleges, that Sindy

Cardona has operated the A and A Facility since at least 20 April 2012.

27. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona is an owner of the A and A Facility.

28. Waterkeeper is informed and believes, and thereon alleges, that Sindy Cardona has owned the A and A Facility since at least 20 April 2012.

29. Waterkeeper refers to A and A Metal Recycling, Inc., and Sindy Cardona collectively as the “A and A Facility Owners and/or Operators.”

IV. LEGAL BACKGROUND

A. The Clean Water Act and California Storm Water Permit.

30. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States not authorized by, or in violation of, the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342(b).

31. Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p), establishes a framework for regulating industrial storm water discharges under the NPDES permit program.

32. Section 402(b) of the Clean Water Act, 33 U.S.C. § 1342(b), allows each state to administer its own EPA-approved NPDES permit program for regulating the discharge of pollutants, including discharges of polluted storm water. States with approved NPDES permit programs are authorized by Section 402(b) to regulate industrial storm water discharges through individual NPDES permits issued to dischargers and/or through the issuance of a single, statewide, general NPDES permit applicable to all industrial storm water dischargers. *See* 33 U.S.C. § 1342(b); 33 U.S.C. § 1342(b) § 1342(p).

33. California is a state authorized by the EPA to issue NPDES permits.

34. The Storm Water Permit is a statewide general NPDES permit issued by the State Board pursuant to the Clean Water Act. *See* Storm Water Permit, Finding No. 15.

35. In order to discharge storm water lawfully in California, industrial storm water dischargers must secure coverage under the Storm Water Permit and comply with its terms, or obtain and comply with an individual NPDES permit.

36. Violations of the Storm Water Permit are violations of the Clean Water Act. *See* Storm Water Permit, Section C(1).

37. Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1), provides for citizen enforcement actions against any “person” who is alleged to be in violation of an “effluent standard or limitation . . . or an order issued by the Administrator or a State with respect to such a standard or limitation.” *See* 33 U.S.C. §§ 1365(a)(i) and 1365(f).

38. Each of the Receiving Waters is a “water of the United States” within the meaning of Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7) and 33 C.F.R. § 328.3(a).

39. A and A Metal Recycling, Inc., is a “person” within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

40. Sindy Cardona is a “person” within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

41. An action for injunctive relief is authorized under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a).

42. Each separate violation of the Clean Water Act subjects the violator to a penalty of up to \$37,500 per day for violations occurring after 12 January 2009. *See* 33 U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4 (Adjustment of Civil Monetary Penalties for Inflation).

43. Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), allows prevailing or substantially prevailing parties to recover litigation costs, including attorneys’ fees, experts’ fees, and consultants’ fees.

B. Effluent Limitation B(3) of the Storm Water Permit.

44. Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges

1 through the implementation of Best Available Technology Economically Achievable
 2 (“BAT”) for toxic or non-conventional pollutants and Best Conventional Pollutant
 3 Control Technology (“BCT”) for conventional pollutants. Toxic pollutants are listed at 40
 4 C.F.R. § 401.15 and include copper, lead, and zinc, among others. Conventional
 5 pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand
 6 (“BOD”), total suspended solids (“TSS”), oil and grease (“O&G”), pH, and fecal
 7 coliform, among others.

8 45. EPA’s NPDES Multi-Sector General Permit for Stormwater Discharges
 9 Associated With Industrial Activity (“MSGP”) sets numeric benchmarks for pollutant
 10 concentrations in storm water discharges (“EPA Benchmarks”).

11 46. The EPA Benchmarks provide an objective standard to determine whether a
 12 facility’s Best Management Practices (“BMPs”) are successfully developed and/or
 13 implemented. *See* MSGP Fact Sheet, at 95 (2008), *available at*
 14 http://www.epa.gov/npdes/pubs/msgp2008_finalfs.pdf.

15 47. Discharges from an industrial facility containing pollutant concentrations
 16 that exceed EPA Benchmarks indicate that the facility has not developed and/or
 17 implemented BMPs that meet BAT for toxic pollutants and BCT for conventional
 18 pollutants. *Id.*

19 **C. Receiving Water Limitations C(1) and C(2) of the Storm Water Permit.**

20 48. Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm
 21 water discharges that adversely impact human health or the environment.

22 49. Discharges with pollutant levels that exceed levels known to adversely
 23 impact aquatic species and the environment are violations of Receiving Water Limitation
 24 C(1) of the Storm Water Permit.

25 50. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm
 26 water discharges that “cause or contribute to an exceedance of any applicable water
 27 quality standard in a Statewide Water Quality Control Plan or the applicable Regional
 28 Board’s Basin Plan.”

1 51. Water Quality Standards (“WQS”) are pollutant concentration levels
2 determined by the State Board, the various regional boards, and/or the EPA to be
3 protective of the beneficial uses of the waters that receive polluted discharges.

4 52. WQS applicable to dischargers covered by the Storm Water Permit include,
5 but are not limited to, those set out in the *Water Quality Control Plan, Los Angeles*
6 *Region (Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties)*,
7 California Regional Water Quality Control Board, Los Angeles Region (4) (adopted June
8 13, 1994, as amended) (“Basin Plan”), and in the Criteria for Priority Toxic Pollutants for
9 the State of California (“CTR”), 40 C.F.R. § 131.38.

10 53. The CTR includes numeric criteria set to protect human health and the
11 environment in the state of California.¹

12 54. The Basin Plan identifies the “Beneficial Uses” of water bodies in the Los
13 Angeles region.

14 55. The Beneficial Uses for the Los Angeles River Watershed, which receives
15 polluted storm water discharges from the A and A Facility, include water contact
16 recreation (REC 1), non-contact water recreation (REC 2), warm freshwater habitat
17 (WARM), ground water recharge (GWR), wildlife habitat (WILD), wetland (WET),
18 estuarine habitat (EST), industrial service supply (IND), navigation (NAV), marine
19 habitat (MAR), commercial fishing (COMM), rare, threatened, or endangered (RARE),
20 migration of aquatic organisms (MIGR), and spawning, reproduction and/or early
21 development (SPWN). *See* Basin Plan, Table 2-1.

22 56. A surface water that cannot support its Beneficial Uses listed in the Basin
23 Plan is designated as an impaired water body pursuant to Section 303(d) of the Clean
24 Water Act, 33 U.S.C. § 1313(d).

25 57. Waterkeeper is informed and believes, and thereon alleges, that discharges
26

27 ¹ Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic
28 Pollutants for the State of California Factsheet, EPA-823-00-008, April 2000 *available*
at: <http://water.epa.gov/lawsregs/rulesregs/ctr/factsheet.cfm>.

1 of pollutants at levels above WQS, including the CTR, contribute to the impairment of
2 the Beneficial Uses of the waters receiving the discharges.

3 58. Reaches 1 and 2 of the Los Angeles River are impaired by pH, cyanide,
4 diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper, trash, zinc, and
5 oil. *See* 2010 Integrated Report – All Assessed Waters, available at:
6 http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml.

7 59. The Los Angeles River Estuary is impaired by chlordane, sediment toxicity,
8 and trash. *Id.*

9 60. The Los Angeles/Long Beach Harbor is impaired by chrysene, copper,
10 sediment toxicity, and zinc. *Id.*

11 61. The San Pedro Bay is impaired by sediment toxicity. *Id.*

12 62. The Long Beach City Beach, one of the San Pedro Bay beaches, is impaired
13 by indicator bacteria. *Id.*

14 63. Discharges with pollutant levels in excess of the CTR criteria, the Basin
15 Plan, and/or other applicable WQS are violations of Receiving Water Limitation C(2) of
16 the Storm Water Permit.

17 64. Discharges with elevated levels of pollutant are violations of Receiving
18 Water Limitation C(1) of the Storm Water Permit.

19 **D. The Storm Water Permit's NOI Requirements.**

20 65. Provision E(1) of the Storm Water Permit requires all facility operators
21 seeking coverage by the Storm Water Permit to submit an NOI for each of the facilities
22 they operate.

23 66. Provision E(1) of the Storm Water Permit requires facility operators filing an
24 NOI after 17 April 1997 to use the NOI instructions at Attachment 3 of the Storm Water
25 Permit ("NOI Instructions").

26 67. The NOI Instructions require facility operators to enter the total size of the
27 facility (Part C) and identify Standard Industrial Classification ("SIC") codes that
28 represent the industrial activities taking place at the facility (Part D). Storm Water Permit,

1 Attachment 3, NOI Instructions.

2 **E. The Storm Water Permit's Storm Water Pollution Prevention Plan**
3 **Requirements.**

4 68. Section A(1) and Provision E(2) of the Storm Water Permit require
5 dischargers to develop and implement a Storm Water Pollution Prevention Plan
6 ("SWPPP") that complies with the requirements of the Storm Water Permit prior to
7 commencing industrial activities.

8 69. The objectives of the SWPPP are to identify and evaluate sources of
9 pollutants associated with industrial activities that may affect the quality of storm water
10 discharges, to identify and implement site-specific BMPs to prevent the exposure of
11 pollutants to storm water, and to reduce or prevent the discharge of polluted storm water
12 from industrial facilities. Storm Water Permit, Section A(2).

13 70. Section A(3) of the Storm Water Permit requires a discharger to identify the
14 members of its on-site Storm Water Pollution Prevention Team and to indicate each team
15 member's responsibilities in developing, implementing and revising the SWPPP so as to
16 ensure compliance with the Storm Water Permit.

17 71. Section A(4) of the Storm Water Permit requires that the SWPPP include a
18 site map that contains, among other requirements: the facility boundaries, storm water
19 drainage areas and directions of flow for each drainage area, on-site surface water bodies,
20 nearby water bodies, areas of soil erosion, and municipal storm drain inlets where the
21 facility's storm water discharges may be received (Section A(4)(a)); the location of the
22 storm water collection, conveyance, and discharge system and structural control measures
23 that affect storm water discharges (Section A(4)(b)); an outline of all impervious areas of
24 the facility, including paved areas, buildings, covered storage areas, or other roofed
25 structures (Section (4)(c)); locations where materials are directly exposed to precipitation
26 and where significant spills or leaks have occurred (Section A(4)(d)); and areas of
27 industrial activity, including areas that are actual and potential pollutant sources (Section
28 A(4)(e)).

1 72. Section A(5) of the Storm Water Permit requires that the SWPPP include a
2 list of significant materials handled and stored at the site.

3 73. Section A(6)(a) of the Storm Water Permit requires that the SWPPP include
4 a narrative description of the facility's industrial activities, associated potential pollutant
5 sources, potential pollutants that could be discharged in storm water discharges, and all
6 non-stormwater discharges.

7 74. Section A(6)(b) of the Storm Water Permit requires that the SWPPP include
8 a summary of all areas of industrial activities, potential pollutant sources, and potential
9 pollutants.

10 75. Section A(7)(a) of the Storm Water Permit requires that the SWPPP include
11 a narrative assessment of all industrial activities and potential pollutant sources to
12 determine which areas of the facility are likely sources of pollutants and which pollutants
13 are likely to be present in the storm water discharges. Section A(7)(b) of the Storm Water
14 Permit requires that the SWPPP include a summary of the areas of the facility that are
15 likely sources of pollutants and the corresponding pollutants likely to be present in storm
16 water discharges.

17 76. Section A(8) of the Storm Water Permit requires that the SWPPP include a
18 narrative description of the storm water BMPs to be implemented at the facility for each
19 potential pollutant and its source. BMPs shall be developed and implemented to reduce or
20 prevent pollutants in storm water discharges. Storm Water Permit, Section A(8).
21 Dischargers must develop and implement structural and/or non-structural BMPs. *Id.*

22 77. Section A(9) of the Storm Water Permit requires that the discharger evaluate
23 the SWPPP on an annual basis and revise it as necessary to ensure compliance with the
24 Storm Water Permit.

25 78. Sections A(9)(a)-(c) of the Storm Water Permit require that the discharger
26 conduct an annual comprehensive site compliance evaluation that includes a review of all
27 visual observation records, inspection reports, and sampling and analysis results; a visual
28 inspection of all potential pollutant sources for evidence of, or the potential for, pollutants

entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP.

79. Section A(9)(d) of the Storm Water Permit requires that the discharger submit an evaluation report that includes identification of personnel performing the evaluation, the date(s) of the evaluation(s), necessary SWPPP revisions, a schedule for implementing SWPPP revisions, any incidents of non-compliance and the corrective actions taken, and certification that the discharger is in compliance with the Storm Water Permit. If certification of compliance cannot be provided, the discharger must explain in the evaluation report why the facility is not in compliance with the Storm Water Permit. Storm Water Permit, Section A(9)(d). The evaluation report shall be submitted as part of the Annual Report, which is specified in Section B(14) of the Storm Water Permit. Storm Water Permit, Section B(14).

80. Section A(10) of the Storm Water Permit requires that the discharger revise the SWPPP as necessary prior to changes in industrial activities, or as otherwise required by the Storm Water Permit.

F. The Storm Water Permit's Monitoring and Reporting Requirements.

81. Section B(1) and Provision E(3) of the Storm Water Permit require dischargers to develop and implement a Monitoring and Reporting Program ("M&RP") prior to commencing industrial activities.

82. The objectives of the M&RP are to confirm that BMPs have been adequately developed and implemented such that storm water and non-stormwater discharges comply with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. Storm Water Permit, Sections B(2)(a) and B(2)(b).

83. The M&RP aids in the implementation and revision of the SWPPP and measures the effectiveness of BMPs to prevent or reduce pollutants in storm water discharges. Storm Water Permit, Sections B(2)(c) and B(2)(d).

1 84. Section B(2)(d) of the Storm Water Permit requires that the M&RP “shall be
2 revised” as necessary to ensure compliance with the Storm Water Permit.

3 85. Section B(3) of the Storm Water Permit requires a discharger to conduct
4 visual observations of all drainage areas within the facility for the presence of authorized
5 and unauthorized non-stormwater discharges. Observations under this section must occur
6 during daylight hours, on days with no storm water discharges, and during scheduled
7 facility operating hours. Storm Water Permit, Sections B(3).

8 86. Section B(4) of the Storm Water Permit requires a discharger to conduct
9 visual observations of storm water discharges during the first hour of discharge, at each
10 discharge point, of at least one storm event per month during October 1 – May 30 (“Wet
11 Season”). Observations under this section must take place during daylight hours, on days
12 when the discharge is preceded by at least three (3) days without storm water discharges,
13 and during scheduled facility operating hours. Storm Water Permit, Section B(4).

14 87. Visual observations conducted under Sections B(3) and B(4) of the Storm
15 Water Permit must be recorded. Storm Water Permit, Sections B(3)(d) and B(4)(c).
16 Records of observations must describe the presence of any floating or suspended
17 materials, O&G, discolorations, turbidity, odor, and the source of any pollutants observed
18 during the visual observation. *Id.* Dischargers must maintain records of visual
19 observations that include the observation date, locations observed, and responses taken to
20 eliminate unauthorized non-stormwater discharges and to reduce or prevent pollutants
21 from contacting non-stormwater and storm water discharges. *Id.* Furthermore, Sections
22 B(3) and B(4) require a discharger to revise a facility’s SWPPP in order to rectify any
23 instances of noncompliance observed during visual observations. *Id.*

24 88. Sections B(5) and B(7) of the Storm Water Permit require dischargers to
25 visually observe and collect samples of storm water discharges from all locations where
26 storm water is discharged.

27 89. Section B(5)(a) of the Storm Water Permit requires dischargers to collect
28 storm water samples during the first hour of discharge. Samples of storm water

1 discharges must be collected from the first storm event of the Wet Season and at least one
2 other storm event in the Wet Season. Storm Water Permit, Section B(5)(a). All storm
3 water discharge locations must be sampled. *Id.*

4 90. Facility operators that do not collect samples from the first storm event of
5 the Wet Season are still required to collect samples from two other storm events during
6 the Wet Season, and must explain in the Annual Report why the first storm event was not
7 sampled. *Id.*

8 91. Section B(5)(b) requires that sampling conducted pursuant to the Storm
9 Water Permit occur during scheduled facility operating hours on days that are preceded
10 by at least three (3) working days without storm water discharge.

11 92. Section B(5)(c)(i) of the Storm Water Permit requires dischargers to analyze
12 each sample for pH, specific conductance (“SC”), TSS, and O&G. A discharger may
13 substitute analysis for total organic carbon (“TOC”) instead of O&G.

14 93. Section B(5)(c)(ii) of the Storm Water Permit requires dischargers to
15 analyze each sample for toxic chemicals and other pollutants likely to be present in the
16 storm water discharged from the facility in significant quantities.

17 94. Section B(5)(c)(iii) and Table D of the Storm Water Permit require facilities
18 classified as SIC code 5093 to analyze storm water samples for iron, lead, aluminum,
19 zinc, copper, and Chemical Oxygen Demand (“COD”).

20 95. Section B(5)(c)(iii) and Table D of the Storm Water Permit require facilities
21 classified as SIC code 4953 to analyze storm water samples for ammonia, magnesium,
22 arsenic, cadmium, cyanide, mercury, selenium, and silver.

23 96. Section B(5)(c)(iv) of the Storm Water Permit requires dischargers to
24 analyze each sample for all parameters as required by the Regional Board.

25 97. Section B(14) of the Storm Water Permit requires dischargers to submit an
26 Annual Report to the applicable regional board by July 1 of each year. The Annual
27 Report must include a summary of visual observations and sampling results, an
28 evaluation of the visual observations and sampling and analysis results, laboratory

reports, the annual comprehensive site compliance evaluation report specified in Section A(9) of the Storm Water Permit, an explanation of why a facility did not implement any required activities, and other records specified in Section B(13) of the Storm Water Permit. Storm Water Permit, Section B(14).

98. Section C(9) of the Storm Water Permit requires that all reports, certifications, or other information required by the Storm Water Permit or requested by a regional board to have been signed by an authorized representative of the facility's operators.

99. Section C(10) of the Storm Water Permit requires any signatory subject to Section C(9) to make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

100. Section C(11)(d) of the Storm Water Permit requires facility operators to report any incidence of noncompliance with the Storm Water Permit at the time monitoring reports are submitted. Reports of noncompliance must contain (1) a description of noncompliance and its cause, (2) the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and (3) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d).

V. FACTUAL BACKGROUND

A. Facility Site Description.

101. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators conduct industrial operations for A and A Metal

1 Recycling, Inc., at 2821 East Washington Boulevard, Los Angeles, California 90023.

2 102. Waterkeeper is informed and believes, and thereon alleges, that the A and A
3 Facility Owners and/or Operators conduct industrial operations at the A and A Facility
4 under the name KSI Metals.

5 103. Waterkeeper is informed and believes, and thereon alleges, that the A and A
6 Facility is bordered by East Washington Boulevard on the south and private property on
7 the west, east, and north.

8 104. Waterkeeper is informed and believes, and thereon alleges, that the A and A
9 Facility has one driveway at East Washington Boulevard.

10 **B. The A and A Facility's Storm Water Permit Coverage.**

11 105. On or about 20 April 2012, the A and A Facility Owners and/or Operators
12 submitted a Notice of Intent to Comply with the Terms of the General Permit to
13 Discharge Storm Water Associated with Industrial Activity ("A and A Facility NOI") for
14 the A and A Facility.

15 106. The State Board confirmed receipt of the A and A NOI for the A and A
16 Facility on 11 May 2012 ("NOI Receipt").

17 107. The A and A Facility NOI identifies the operator of the A and A Facility as
18 "Sindy Cardona."

19 108. The A and A Facility NOI identifies the Facility name and location as "A&A
20 Metal Recycling Inc., 2821 East Washington Blvd, Los Angeles, CA, 90023."

21 109. The State Board's electronic database, called the Storm Water Multiple
22 Application & Report Tracking System ("SMARTS"),² identifies the Facility operator
23 and address as "Sindy Cardona, 652 E 83rd St Los Angeles California 90001."

24 110. SMARTS identifies the Facility name and address as "A and A Metal
25 Recycling Inc, 2821 E Washington Blvd Los Angeles California 90023."

26 111. SMARTS lists the A and A Facility's coverage under the Storm Water
27 Permit as "Active."

28 _____
² Available at <http://smarts.waterboards.ca.gov/>.

1 112. The NOI Receipt and SMARTS list the A and A Facility Waste Discharge
2 Identification (“WDID”) number as 4 19I023633.

3 113. The A and A Facility NOI lists the SIC code for the A and A Facility as
4 5093.

5 114. The A and A Facility NOI lists the total size of the Facility as 20,900 square
6 feet.

7 **C. Defendant’s SWPPP and M&RP for the A and A Facility.**

8 115. Waterkeeper is informed and believes, and thereon alleges, that on or about
9 22 July 2014, the A and A Facility Owners and/or Operators submitted to the Regional
10 Board a copy of the A and A Facility SWPPP, which was signed and dated 24 June 2014
11 by Sindy Cardona (“A and A Facility SWPPP”).

12 116. Waterkeeper is informed and believes, and thereon alleges, that the A and A
13 Facility SWPPP is the A and A Facility’s current SWPPP.

14 **D. Industrial Activities at the A and A Facility.**

15 117. Waterkeeper is informed and believes, and thereon alleges, that the A and A
16 Facility’s industrial activities and areas of industrial activity are pollutant sources.

17 118. Waterkeeper is informed and believes, and thereon alleges, that the
18 following industrial activities are conducted at the A and A Facility: unloading, sorting,
19 temporary storage, weighing, processing, and transfer of metal scraps as well as
20 appliances, vehicle components and tires, electronic waste, and a variety of other
21 materials; receipt and storage of hazardous waste; vehicle and equipment storage.

22 119. Waterkeeper is informed and believes, and thereon alleges, that the A and A
23 Facility Owners and/or Operators conduct unloading, sorting, temporary storage,
24 processing, and transfer of metal scraps as well as appliances, vehicle components and
25 tires, and electronic waste in the southern portion of the Facility, near the Facility’s
26 driveway at East Washington Boulevard.

27 120. Waterkeeper is informed and believes, and thereon alleges, that the A and A
28 Facility receives and stores hazardous waste at the Facility, including vehicle waste

1 fluids.

2 121. Waterkeeper is informed and believes, and thereon alleges, that the A and A
3 Facility Owners and/or Operators conduct receipt and storage of hazardous waste
4 outdoors, in the southern portion of the Facility, near the Facility's driveway at East
5 Washington Boulevard.

6 122. Waterkeeper is informed and believes, and thereon alleges, that the A and A
7 Facility Owners and/or Operators conduct vehicle and equipment storage in the southern
8 portion of the Facility, near the Facility's driveway at East Washington Boulevard.

9 123. Waterkeeper is informed and believes, and thereon alleges, that industrial
10 activities at the A and A Facility are conducted outdoors and without adequate cover or
11 other measures to prevent the exposure of industrial activities to rainfall.

12 124. Waterkeeper is informed and believes, and thereon alleges, that industrial
13 activities at the A and A Facility are conducted outdoors without secondary containment
14 or other measures to prevent polluted storm water from discharging from the Facility.

15 125. Waterkeeper is informed and believes, and thereon alleges, that materials
16 associated with industrial activities at the A and A Facility are stored near the Facility's
17 discharge point at the East Washington Boulevard driveway.

18 126. Waterkeeper is informed and believes, and thereon alleges, that materials
19 associated with industrial activities at the A and A Facility, such as tires, vehicle brake
20 pads and rotors, trash, and other materials are scattered on the Facility's grounds,
21 including near the Facility's discharge point at the East Washington Boulevard driveway.

22 127. Waterkeeper is informed and believe, and thereon alleges, that the A and A
23 Facility has no sediment control devices to prevent the tracking of pollutants within and
24 off the Facility by vehicles driving through the Facility and exiting via the Facility's
25 driveway.

26 128. Waterkeeper is informed and believes, and thereon alleges, that O&G, trash,
27 debris, and other pollutants, including metals and pathogens, have been and continue to
28 be tracked throughout the A and A Facility.

1 129. Waterkeeper is informed and believes, and thereon alleges, that trucks and
2 vehicles leaving the A and A Facility via the East Washington Boulevard driveway are
3 pollutant sources tracking sediment, O&G, metal particles, trash, debris, and other
4 pollutants off the Facility.

5 130. Waterkeeper is informed and believes, and thereon alleges, that sources of
6 pollutants at the A and A Facility include: outdoor material handling and storage areas;
7 outdoor material processing areas; metal structures; loose piles of waste and recyclable
8 materials; uncovered roll-off bins, dumpsters, and other containers; vehicle and
9 equipment storage areas; hazardous waste storage areas; loading and unloading areas;
10 areas with vehicle and equipment traffic and associated track-off of pollutants; on-site
11 material handling equipment; and other industrial equipment.

12 131. Waterkeeper is informed and believes, and thereon alleges, that the
13 pollutants associated with operations at the A and A Facility include, but are not limited
14 to: trash; recyclable materials; fugitive and other dust and debris; metals such as
15 aluminum, copper, iron, lead, and zinc; mercury; O&G; pathogens (including bacteria);
16 pH-affecting substances; lubrication fluids; solvents and cleaners; fuels and fuel
17 additives; and TSS.

18 132. Waterkeeper is informed and believes, and thereon alleges, that pollutants
19 accumulate on the A and A Facility at material handling, storage, sorting, and processing
20 areas; the hazardous waste storage area; vehicle and equipment storage areas; loading and
21 unloading areas; the driveway leading to East Washington Boulevard; and the
22 surrounding sidewalks and municipal streets themselves, including East Washington
23 Boulevard.

24 133. Waterkeeper is informed and believes, and thereon alleges, that the A and A
25 Facility Owners and/or Operators have failed to adequately develop and/or implement
26 BMPs to prevent the exposure of pollutants and their sources to storm water flows at the
27 A and A Facility, in violation of the Storm Water Permit and the Clean Water Act.

28 134. Waterkeeper is informed and believes, and thereon alleges, that the A and A

1 Facility Owners and/or Operators have failed to adequately develop and/or implement
 2 BMPs sufficient to reduce or prevent pollutants in storm water discharged from the A and
 3 A Facility, as required by the Storm Water Permit and the Clean Water Act.

4 135. The failure to properly address pollutants and their sources results in the
 5 discharge of pollutants from the A and A Facility in violation of the Storm Water Permit
 6 and the Clean Water Act.

7 **E. Storm Water Discharges at the A and A Facility.**

8 136. The A and A Facility Owners and/or Operators state in the A and A Facility
 9 SWPPP that the Facility has one discharge point located at the “South Entrance/Exit
 10 Gate.”

11 137. Waterkeeper is informed and believes, and thereon alleges, that the A and A
 12 Facility has at least one discharge point, located at the Facility’s driveway at East
 13 Washington Boulevard (“East Washington Blvd. Discharge Point”).

14 138. Waterkeeper is informed and believes, and thereon alleges, that the East
 15 Washington Blvd. Discharge Point receives storm water flows from the entire Facility.

16 139. Waterkeeper is informed and believes, and thereon alleges, that the East
 17 Washington Blvd. Discharge Point flows to the Los Angeles area municipal separate
 18 storm sewer system, which carries the discharges from the A and A Facility to the
 19 Receiving Waters.

20 **F. Defendant’s Failure to Comply with the Storm Water Permit’s Notice of**
 21 **Intent Requirements.**

22 140. Waterkeeper is informed and believes, and thereon alleges, that the A and A
 23 Facility Owners and/or Operators failed and continue to fail to comply with the Storm
 24 Water Permit’s notice of intent requirements, including the instructions at Attachment 3
 25 (“NOI Instructions”), in violation of Provision E(1).

26 141. The A and A Facility SWPPP, at page 16, states that the A and A Facility
 27 receives and stores “[w]aste fluids consisting of vehicle fluids such as oil and hydraulic
 28 fluids” from customers.

142. Waterkeeper is informed and believes, and thereon alleges, that SIC code 4953 is applicable to the Facility's industrial activities because the Facility receives and stores hazardous waste fluids.

143. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators failed and continue to fail to include in the A and A Facility NOI all regulated industrial activities occurring at the A and A Facility, including but not limited to activities covered by SIC code 4953.

144. The A and A NOI inaccurately states that the receiving water for the A and A Facility's storm water discharge is Compton Creek.

145. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility's storm water is discharged to the Los Angeles River.³

146. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators fail and continue to fail to accurately state the receiving water for the A and A Facility's storm water discharges in the A and A NOI.

G. The Storm Water Discharges at the A and A Facility Contain Elevated Levels of Pollutants.

147. On 24 January 2013, Waterkeeper collected samples of storm water discharges at the A and A Facility's East Washington Boulevard Discharge Point.

148. On 8 March 2013, Waterkeeper collected samples of storm water discharges at the A and A Facility's East Washington Boulevard Discharge Point.

149. On 27 February 2014, Waterkeeper collected samples of storm water discharges at the A and A Facility's East Washington Boulevard Discharge Point.

150. On 2 December 2014, Waterkeeper collected samples of storm water discharges at the A and A Facility's East Washington Boulevard Discharge Point.

151. On 12 December 2014, Waterkeeper collected samples of storm water

³ Los Angeles County Department of Public Works' Los Angeles County Storm Drain System Map, available at <http://dpw.lacounty.gov/fcd/stormdrain/index.cfm> (searches for address "2821 East Washington Blvd" show the receiving water for the A and A Facility's discharges is Los Angeles River).

1 discharges at the A and A Facility's East Washington Boulevard Discharge Point.

2 152. Waterkeeper's samples of storm water discharges collected at the A and A
3 Facility contain levels of pollutants in excess of EPA Benchmarks. *See* Exhibit A at §
4 II.B.2 (identifying specific storm water samples with TSS, SC, O&G, COD, pH, iron,
5 copper, zinc, magnesium, aluminum, lead, cadmium, mercury, and silver concentrations
6 above EPA Benchmarks).

7 153. Waterkeeper is informed and believes, and thereon alleges, that repeated
8 exceedances of EPA Benchmarks demonstrate that Defendants failed and continue to fail
9 to develop and/or implement required BMPs at the A and A Facility that achieve
10 compliance with BAT/BCT standards.

11 154. Waterkeeper is informed and believes, and thereon alleges, that each time
12 the A and A Facility discharges storm water the discharges contain levels of pollutants
13 that demonstrate the A and A Facility Owners' and/or Operators' failure to achieve
14 compliance with BAT/BCT standards. *See* Storm Water Permit, Effluent Limitations
15 B(3).

16 155. Samples of storm water discharges collected at the A and A Facility contain
17 levels of pollutants in excess of WQS. *See* Exhibit A at § II.C (identifying specific storm
18 water samples with copper, lead, zinc, mercury, and cadmium concentrations above
19 WQS).

20 156. Samples of storm water discharges collected at the A and A Facility contain
21 concentrations of pollutants at levels known to adversely impact aquatic species and the
22 environment. *See* Exhibit A at § II.C.

23 **H. Defendants' Failure to Comply with the Storm Water Permit's SWPPP**
24 **Requirements.**

25 157. Waterkeeper is informed and believes, and thereon alleges, that the A and A
26 Owners and/or Operators commenced industrial operations at the A and A Facility prior
27 to developing a SWPPP.

28 158. Waterkeeper is informed and believes, and thereon alleges, that the A and A

1 Owners and/or Operators commenced industrial operations at the A and A Facility prior
2 to implementing a SWPPP.

3 159. Waterkeeper is informed and believes, and thereon alleges, that the A and A
4 Owners and/or Operators operated the A and A Facility without a SWPPP for the Facility
5 until on or about 24 June 2014.

6 160. Waterkeeper is informed and believes, and thereon alleges, that the A and A
7 Facility Owners and/or Operators failed and continue to fail to develop a SWPPP for the
8 A and A Facility that complies with Section A of the Storm Water Permit since obtaining
9 coverage on or about 20 April 2012.

10 161. Waterkeeper is informed and believes, and thereon alleges, that the A and A
11 Facility Owners and/or Operators failed and continue to fail to implement a SWPPP for
12 the A and A Facility that complies with Section A of the Storm Water Permit since
13 obtaining coverage on or about 20 April 2012.

14 162. Waterkeeper is informed and believes, and thereon alleges, that the A and A
15 Facility Owners and/or Operators failed and continue to fail to revise a SWPPP for the A
16 and A Facility that complies with Section A of the Storm Water Permit.

17 163. Waterkeeper is informed and believes, and thereon alleges, that the A and A
18 Facility SWPPP fails to include a Pollution Prevention Team that identifies individuals
19 responsible for sampling and visual monitoring as required by Section A(3)(a) of the
20 Storm Water Permit.

21 164. Waterkeeper is informed and believes, and thereon alleges, that the A and A
22 Facility SWPPP fails to include a Pollution Prevention Team that identifies the
23 individuals responsible for BMP implementation as required by Section A(3)(a) of the
24 Storm Water Permit.

25 165. Waterkeeper is informed and believes, and thereon alleges, that the A and A
26 Facility SWPPP fails to include a site map of the A and A Facility that includes points of
27 discharge, outlines of all storm drainage areas with indicators of flow direction in each
28 area, identification of nearby water bodies, municipal storm drain inlets where the

1 Facility's storm water discharges may be received, locations of all storm water collection
2 and conveyance systems, all structural control measures that affect storm water
3 discharges, outlines of all impervious areas, locations where materials are directly
4 exposed to precipitation, and all areas of industrial activity, including the separation and
5 dismantling area, as required by Section A(4) of the Storm Water Permit.

6 166. The A and A Facility SWPPP's "Description of Potential Pollutants," at
7 pages 6–7, does not list pH-, SC-, and COD-affecting substances, TSS, iron, copper, zinc,
8 magnesium, aluminum, lead, mercury, cadmium, or silver as potential pollutants.

9 167. The A and A Facility SWPPP's "Description of Potential Pollutants," at
10 pages 6–7, does not identify the Facility's sources of potential pollutants such as pH-,
11 SC-, and COD-affecting substances, iron, copper, zinc, magnesium, aluminum, lead,
12 mercury, cadmium, or silver.

13 168. The A and A Facility SWPPP's "Description of Potential Pollutants," at
14 page 6, states that the A and A Facility's "outdoor storage is always changing in
15 composition and there is a chance that storm water may carry any of the contaminants
16 present in these materials into the pavement."

17 169. The A and A Facility SWPPP's "Description of Potential Pollutants," at
18 page 6, states that the A and A Facility's "Miscellaneous Appliances Storage consists [of]
19 used appliances such as refrigerators, dishwashers, dryers [and] other type[s] of
20 household or commercial equipment that contains wiring, metallic or others parts that
21 may have residual contaminants."

22 170. The A and A Facility SWPPP's "Description of Potential Pollutants," at
23 page 6, states that "[d]uring the separation/dismantling process, small solids pieces may
24 end up in the floor areas representing a potential pollutant"

25 171. Waterkeeper is informed and believes, and thereon alleges, that the A and A
26 Facility SWPPP fails to include all potential pollutants that could be discharged in storm
27 water discharges, as required by Section A(6)(a) of the Storm Water Permit.

28 172. Waterkeeper is informed and believes, and thereon alleges, that the A and A

1 Facility SWPPP's "Individual BMPs to Control Pollutants," at pages 12–17, does not
2 identify all potential pollutants associated with each pollutant source.

3 173. Neither the A and A Facility SWPPP's "Description of Potential Pollutants,"
4 at page 6, nor the "Individual BMPs to Control Pollutants," at page 15, identifies the
5 pollutant characteristics associated with the dismantling activities at the A and A Facility
6 or the quantity of associated materials.

7 174. The A and A Facility SWPPP's Significant Material List, at page 8, only
8 lists "55 gallon Used Liquid Oil" and "55 gallons Solid Used Absorbent" as the
9 significant materials stored at the A and A Facility.

10 175. Waterkeeper is informed and believes, and thereon alleges, that the A and A
11 Facility SWPPP fails to include all significant materials handled or stored at the site and
12 the typical quantities of those materials, including but not limited to such as metal scraps,
13 electronic waste, waste fluids, tires, vehicle components, and other materials, as required
14 by Sections A(5) and A(6) of the Storm Water Permit.

15 176. Waterkeeper is informed and believes, and thereon alleges, that the A and A
16 Facility SWPPP fails to include the type, characteristics, and quantities of all significant
17 materials used in or resulting from each industrial process, as required by Section
18 A(6)(a)(i) of the Storm Water Permit.

19 177. Waterkeeper is informed and believes, and thereon alleges, that the A and A
20 Facility SWPPP fails to include the type, characteristics, and quantities of all significant
21 materials handled or stored at the Facility, as required by Section A(6)(a)(ii) of the Storm
22 Water Permit.

23 178. Waterkeeper is informed and believes, and thereon alleges, that the A and A
24 Facility SWPPP fails to identify the characteristics of dust and particulate pollutants and
25 the approximate quantity of dust and particulate pollutants that may be deposited within
26 the Facility, as required by Section A(6)(a)(iii) of the Storm Water Permit.

27 179. The A and A Facility SWPPP does not describe potential sources of non-
28 stormwater discharges.

1 180. Waterkeeper is informed and believes, and thereon alleges, that the A and A
2 Facility SWPPP fails to describe potential sources of non-stormwater discharges, as
3 required by Section A(6)(a)(v) of the Storm Water Permit.

4 181. The A and A Facility SWPPP does not include a narrative description of the
5 BMPs to be implemented for every potential pollutant and its source.

6 182. The A and A Facility SWPPP's "Individual BMPs to Control Pollutants"
7 does not identify all potential pollutants and their associated pollutant sources.

8 183. Waterkeeper is informed and believes, and thereon alleges, that the A and A
9 Facility SWPPP fails to include a narrative assessment of all industrial activities and
10 potential pollutant sources in accordance with Section A(7)(a) of the Storm Water Permit.

11 184. Waterkeeper is informed and believes, and thereon alleges, that the A and A
12 Facility Owners and/or Operators fail to include an adequate summary of all BMPs
13 implemented for each pollutant source in a manner similar to the Storm Water Permit's
14 Table B, as required by Section A(8) of the Storm Water Permit.

15 185. Waterkeeper is informed and believes, and thereon alleges, that the A and A
16 Facility Owners and/or Operators have failed and continue to fail to revise and evaluate
17 the A and A Facility SWPPP, including the SWPPP's descriptions of potential pollutants,
18 pollutant sources, and industrial processes, as necessary to develop and implement
19 adequate BMPs, as required by Section A(7) of the Storm Water Permit.

20 186. Waterkeeper is informed and believes, and thereon alleges, that without
21 properly identifying all pollutant sources and potential pollutants at the Facility in the
22 SWPPP, the A and A Facility Owners and/or Operators cannot and have not developed
23 all appropriate BMPs.

24 187. Waterkeeper is informed and believes, and thereon alleges, that without
25 properly identifying all pollutant sources and potential pollutants at the Facility in the A
26 and A Facility SWPPP, the A and A Facility Owners and/or Operators cannot and have
27 not implemented all appropriate BMPs.

28 188. Waterkeeper is informed and believes, and thereon alleges, that the A and A

1 Facility SWPPP does not include an assessment of the Facility's BMPs corresponding to
2 potential pollutant sources and associated pollutants.

3 189. Waterkeeper is informed and believes, and thereon alleges, that the A and A
4 Facility Owners and/or Operators have failed and continue to fail to assess all potential
5 pollutant sources at the Facility.

6 190. Waterkeeper is informed and believes, and thereon alleges, that the A and A
7 Facility Owners and/or Operators have failed and continue to fail to assess the Facility's
8 BMPs corresponding to potential pollutant sources and associated pollutants.

9 191. Waterkeeper is informed and believes, and thereon alleges, that the A and A
10 Facility SWPPP does not include an adequate analysis of the effectiveness of the BMPs
11 at the Facility.

12 192. Waterkeeper is informed and believes, and thereon alleges, that the A and A
13 Facility Owner and/or Operators have failed and continue to fail to analyze the
14 effectiveness of the BMPs at the Facility.

15 193. The A and A Facility SWPPP's "General BMPs to Control Potential
16 Pollutants," at page 9, states that the A and A Facility's only structural general BMP is
17 the Facility's fully paved surface.

18 194. The A and A Facility SWPPP's "Individual BMPs to Control Pollutants," at
19 page 12, states that the A and A Facility's only structural individual BMP for the Scrap
20 Metal Pile is the storage of scrap metal in containers.

21 195. Based on Waterkeeper's observations, Waterkeeper is informed and
22 believes, and thereon alleges, that the Facility's containers are regularly stored without
23 cover.

24 196. The A and A Facility SWPPP's "Individual BMPs to Control Pollutants," at
25 page 13, states that the A and A Facility has no structural individual BMPs for the
26 Miscellaneous Appliances Storage Area.

27 197. The A and A Facility SWPPP's "Individual BMPs to Control Pollutants," at
28 page 14, states that the A and A Facility's only structural individual BMPs for the

1 Vehicle Parking and Unloading Areas are trash cans and “secondary containment [that] is
2 used for waste fluids dumped in the paved areas.”

3 198. Based on Waterkeeper’s observations, Waterkeeper is informed and
4 believes, and thereon alleges, that the Facility has no structural secondary containment in
5 the Vehicle Parking and Unloading Areas.

6 199. The A and A Facility SWPPP’s “Individual BMPs to Control Pollutants,” at
7 page 15, states “All Separation/Dismantling is done outdoors” as the A and A Facility’s
8 only structural individual BMP for the Separation and Dismantling Area.

9 200. Waterkeeper is informed and believes, and thereon alleges, that the A and A
10 Facility SWPPP does not include adequate structural BMPs to reduce or prevent
11 pollutants in storm water discharges, as required by Section A(8)(b) of the Storm Water
12 Permit.

13 201. Waterkeeper is informed and believes, and thereon alleges, that the A and A
14 Facility SWPPP does not include adequate BMPs to reduce or prevent pollutants in storm
15 water discharges to levels required by the Storm Water Permit.

16 202. Waterkeeper is informed and believes, and thereon alleges, that the repeated
17 and significant exceedances of benchmark levels demonstrate that the A and A Facility
18 Owners and/or Operators failed and continue to fail to develop BMPs to prevent the
19 exposure of pollutants to storm water, and to prevent discharges of polluted storm water
20 from the Facility.

21 203. Waterkeeper is informed and believes, and thereon alleges, that the repeated
22 and significant exceedances of benchmark levels demonstrate that the A and A Facility
23 Owners and/or Operators failed and continue to fail to implement BMPs to prevent the
24 exposure of pollutants to storm water, and to prevent discharges of polluted storm water
25 from the Facility.

26 204. Waterkeeper is informed and believes, and thereon alleges, that the A and A
27 Facility SWPPP does not include adequate BMPs developed and/or implemented to
28 control non-stormwater discharges.

I. Defendants' Failure to Comply with the Storm Water Permit's M&RP Requirements.

205. Waterkeeper is informed and believes, and thereon alleges, that the A and A Owners and/or Operators commenced industrial operations at the A and A Facility prior to developing a M&RP.

206. Waterkeeper is informed and believes, and thereon alleges, that the A and A Owners and/or Operators commenced industrial operations at the A and A Facility prior to implementing a M&RP.

207. Waterkeeper is informed and believes, and thereon alleges, that the A and A Owners and/or Operators operated the A and A Facility without an M&RP for the Facility until on or about 24 June 2014.

208. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators failed and continue to fail to develop an adequate M&RP for industrial operations at the A and A Facility that complies with Section B of the Storm Water Permit since obtaining coverage on or about 20 April 2012.

209. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators failed and continue to fail to implement an adequate M&RP for industrial operations at the A and A Facility that complies with Section B of the Storm Water Permit since obtaining coverage on or about 20 April 2012.

210. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators failed and continue to fail to revise a M&RP for the A and A Facility that complies with Section A of the Storm Water Permit.

211. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility Owners and/or Operators were obligated under the Storm Water Permit to collect storm water samples during the 2011-2012, 2012-2013 and 2013-2014 Wet Seasons.

212. Via a Public Records Act request to the Regional Board, Waterkeeper obtained a 2011–2012 Annual Report for the Facility, which was signed and dated by Sindy Cardona on 8 August 2014.

1 213. Waterkeeper is informed and believes, and thereon alleges, that the 2011–
2 2012 Annual Report for the Facility, signed and dated by Sindy Cardona on 8 August
3 2014 (hereinafter referred to as the “2011-2012 Annual Report”), obtained from the
4 Regional Board is the 2011–2012 Annual Report for the A and A Facility.

5 214. Via a Public Records Act request to the Regional Board, Waterkeeper
6 obtained a 2012–2013 Annual Report for the Facility, which was signed and dated by
7 Sindy Cardona on 8 August 2014.

8 215. Waterkeeper is informed and believes, and thereon alleges, that the 2012–
9 2013 Annual Report for the Facility, signed and dated by Sindy Cardona on 8 August
10 2014 (hereinafter referred to as the “2012-2013 Annual Report”), obtained from the
11 Regional Board is the 2012–2013 Annual Report for the A and A Facility.

12 216. Via a Public Records Act request to the Regional Board, Waterkeeper
13 obtained a 2013–2014 Annual Report for the Facility, which was signed and dated by
14 Sindy Cardona on 24 June 2014.

15 217. Waterkeeper is informed and believes, and thereon alleges, that the 2013–
16 2014 Annual Report for the Facility, signed and dated by Sindy Cardona on 11 August
17 2014 (hereinafter referred to as the “2013-2014 Annual Report”), obtained from the
18 Regional Board is the 2013–2014 Annual Report for the A and A Facility.

19 218. The 2011-2012, 2012-2013, and 2013-2014 Annual Reports state that the A
20 and A Facility Owners and/or Operators failed to conduct any storm water sampling and
21 analysis at the A and A Facility during the 2011-2012, 2012-2013, and 2013-2014 Wet
22 Seasons.

23 219. Waterkeeper is informed and believes, and thereon alleges, that the A and A
24 Facility Owners and/or Operators failed and continue to fail to conduct any storm water
25 sampling and analysis at the A and A Facility during the 2011-2012, 2012-2013, and
26 2013-2014 Wet Seasons, as required by Section B(5) of the Storm Water Permit.

27 220. The 2011-2012, 2012-2013, and 2013-2014 Annual Reports state that the A
28 and A Facility Owners and/or Operators failed to conduct any quarterly visual

1 observations at the A and A Facility during the 2011-2012, 2012-2013, and 2013-2014
2 Wet Seasons.

3 221. Waterkeeper is informed and believes, and thereon alleges, that the A and A
4 Facility Owners and/or Operators failed and continue to fail to conduct any quarterly
5 visual observations at the A and A Facility during the 2011-2012, 2012-2013, and 2013-
6 2014 Wet Seasons, as required by Section B(3) of the Storm Water Permit.

7 222. The 2011-2012, 2012-2013, and 2013-2014 Annual Reports state that the A
8 and A Facility Owners and/or Operators failed to conduct any monthly wet season visual
9 observations at the A and A Facility during the 2011-2012, 2012-2013, and 2013-2014
10 Wet Seasons.

11 223. Waterkeeper is informed and believes, and thereon alleges, that the A and A
12 Facility Owners and/or Operators failed and continue to fail to conduct any monthly wet
13 season visual observations at the A and A Facility during the 2011-2012, 2012-2013, and
14 2013-2014 Wet Seasons, as required by Section B(3) of the Storm Water Permit.

15 224. The 2011-2012, 2012-2013, and 2013-2014 Annual Reports state that the A
16 and A Facility Owners and/or Operators failed to conduct any Annual Comprehensive
17 Site Compliance Evaluations (“ACSCE”) at the A and A Facility during the 2011-2012,
18 2012-2013, and 2013-2014 Wet Seasons.

19 225. Waterkeeper is informed and believes, and thereon alleges, that the A and A
20 Owners and/or Operators failed and continue to fail to conduct an ACSCE during each
21 reporting period, as required by Section A(9) of the Storm Water Permit.

22 226. The A and A Facility’s M&RP contained in the A and A Facility SWPPP, at
23 page 20, indicates that the A and A Facility Owners and/or Operators only intend to
24 sample for TSS, pH, SC, O&G or TOC, zinc, lead, copper, and COD.

25 227. The A and A Facility’s M&RP contained in the A and A Facility SWPPP, at
26 page 20, fails to include aluminum and iron as parameters for which samples will be
27 analyzed as part of the M&RP.

28 228. The A and A Facility’s M&RP contained in the A and A Facility SWPPP, at

page 20, fails to include ammonia, magnesium, arsenic, cadmium, cyanide, mercury, and selenium as parameters for which samples will be analyzed as part of the M&RP.

229. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility's M&RP fails to include all analytical parameters associated with SIC code 5093 as provided in Table D of the Storm Water Permit, as required by Section B(5)(c)(iii) of the Storm Water Permit.

230. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility's M&RP fails to include all analytical parameters associated with SIC code 4953 as provided in Table D of the Storm Water Permit, as required by Section B(5)(c)(iii) of the Storm Water Permit.

231. The A and A Facility's M&RP contained in the A and A Facility SWPPP does not provide for sampling to identify any toxic chemicals or other pollutants that are likely to be present in storm water discharges in significant quantities.

232. Waterkeeper is informed and believes, and thereon alleges, that the A and A Facility's M&RP fails to include for sampling to identify any toxic chemicals or other pollutants that are likely to be present in storm water discharges in significant quantities, as required by Section B(5)(c)(ii) of the Storm Water Permit.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Defendants' Failure to Submit an NOI that Complies with the Storm Water Permit's NOI Instructions in Violation of the Storm Water Permit's Provision E(1) and the Clean Water Act.

33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)

233. Waterkeeper incorporates the allegations contained in the above paragraphs and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

234. Waterkeeper is informed and believes, and thereon alleges, that Defendants failed and continue to fail to comply with the Storm Water Permit's NOI Instructions, in violation of Provision E(1).

235. Defendants have been in violation of Provision E(1) of the Storm Water Complaint

1 Permit every day since at least 20 April 2012 for failing to submit an NOI for the A and
2 A Facility that complies with the NOI Instructions.

3 236. Waterkeeper is informed and believes, and thereon alleges, that Defendants'
4 violations of the Storm Water Permit's Provision E(1) and the Clean Water Act are
5 ongoing and continuous.

6 237. Defendants will continue to be in violation of the Storm Water Permit's
7 Provision E(1) and the Clean Water Act each and every day they operate the A and A
8 Facility without complying with the Storm Water Permit's NOI Instructions.

9 238. Each and every day Defendants operate the A and A Facility in violation of
10 Provision E(1) of the Storm Water Permit is a separate and distinct violation of the Clean
11 Water Act.

12 239. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§
13 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged
14 above, Defendants are subject to an assessment of civil penalties for each and every
15 violation of the Clean Water Act since 20 April 2012.

16 240. An action for injunctive relief under the Clean Water Act is authorized by 33
17 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would
18 irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no
19 plain, speedy, or adequate remedy at law.

20 WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth
21 hereafter.

22 **SECOND CAUSE OF ACTION**

23 **Defendants' Discharges of Contaminated Storm Water in Violation of the Storm** 24 **Water Permit's Effluent Limitation B(3) and the Clean Water Act.**

25 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

26 241. Waterkeeper incorporates the allegations contained in the above paragraphs
27 and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

28 242. Waterkeeper is informed and believes, and thereon alleges, that Defendants

1 failed and continue to fail to reduce or prevent pollutants associated with industrial
2 activities in the A and A Facility discharges to levels that, through the development of
3 BMPs, achieve BAT/BCT.

4 243. Waterkeeper is informed and believes, and thereon alleges, that Defendants
5 failed and continue to fail to reduce or prevent pollutants associated with industrial
6 activities in the A and A Facility discharges to levels that, through the implementation of
7 BMPs, achieve BAT/BCT.

8 244. Waterkeeper is informed and believes, and thereon alleges, that discharges
9 of storm water containing levels of pollutants that do not achieve compliance with
10 BAT/BCT standards is discharged from the A and A Facility each time storm water
11 discharges from the A and A Facility.

12 245. Defendants violate Effluent Limitation B(3) of the Storm Water Permit each
13 and every time storm water containing levels of pollutants that do not achieve compliance
14 with BAT/BCT standards is discharged from the A and A Facility.

15 246. Waterkeeper is informed and believes, and thereon alleges, that Defendants'
16 violations of Effluent Limitation B(3) of the Storm Water Permit and the Clean Water
17 Act are ongoing and continuous.

18 247. Defendants will continue to violate the Storm Water Permit and the Clean
19 Water Act each and every time contaminated storm water discharges from the A and A
20 Facility in violation of Effluent Limitation B(3) of the Storm Water Permit.

21 248. Each and every time Defendants discharge contaminated storm water from
22 the A and A Facility in violation of Effluent Limitation B(3) of the Storm Water Permit is
23 a separate and distinct violation of Section 301(a) of the Clean Water Act, 33 U.S.C. §
24 1311(a).

25 249. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§
26 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged
27 above, Defendants are subject to an assessment of civil penalties for each and every
28 violation of the Clean Water Act since 20 April 2012.

250. An action for injunctive relief under the Clean Water Act is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no plain, speedy, or adequate remedy at law.

WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth hereafter.

THIRD CAUSE OF ACTION

Defendants' Discharges of Contaminated Storm Water in Violation of the Storm Water Permit's Receiving Water Limitation C(1) and the Clean Water Act.

33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)

251. Waterkeeper incorporates the allegations contained in the above paragraphs and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

252. Waterkeeper is informed and believes, and thereon alleges, that Defendants discharged and continue to discharge storm water containing levels of pollutants that adversely impact human health and/or the environment from the A and A Facility.

253. Waterkeeper is informed and believes, and thereon alleges, that each time storm water is discharged from the And A Facility it contains levels of pollutants that adversely impact human health and/or the environment.

254. Defendants violate Receiving Water Limitation C(1) of the Storm Water Permit each and every time storm water containing levels of pollutants that adversely impact human health and/or the environment discharges from the A and A Facility.

255. Waterkeeper is informed and believes, and thereon alleges, that Defendants' violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act are ongoing and continuous.

256. Defendants will continue to be in violation of the Storm Water Permit and the CWA each and every time contaminated storm water discharges from the A and A Facility in violation of Receiving Water Limitation C(1) of the Storm Water Permit.

257. Each and every violation of Receiving Water Limitation C(1) of the Storm Water Permit is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C.

1 § 1311(a).

2 258. Pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d),
3 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged above,
4 Defendants are subject to an assessment of civil penalties for each and every violation of
5 the Clean Water Act since 20 April 2012.

6 259. An action for injunctive relief under the Clean Water Act is authorized by 33
7 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would
8 irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no
9 plain, speedy, or adequate remedy at law.

10 WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth
11 hereafter.

12 **FOURTH CAUSE OF ACTION**

13 **Defendants' Discharges of Contaminated Storm Water in Violation of the Storm** 14 **Water Permit's Receiving Water Limitation C(2) and the Clean Water Act.**

15 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

16 260. Waterkeeper incorporates the allegations contained in the above paragraphs
17 and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

18 261. Waterkeeper is informed and believes, and thereon alleges, that Defendants
19 have discharged and continue to discharge storm water containing levels of pollutants
20 from the A and A Facility that cause or contribute to exceedances of water quality
21 standards.

22 262. Waterkeeper is informed and believes, and thereon alleges, that each time
23 storm water is discharged from the A and A Facility it contains levels of pollutants that
24 cause or contribute to exceedances of water quality standards.

25 263. Defendants violate Receiving Water Limitation C(2) of the Storm Water
26 Permit each and every time storm water containing levels of pollutants that cause or
27 contribute to exceedances of water quality standards discharges from the A and A
28 Facility.

264. Waterkeeper is informed and believes, and thereon alleges, that Defendants'

1 violations of Receiving Water Limitation C(2) of the Storm Water Permit and Clean
2 Water Act are ongoing and continuous.

3 265. Each and every violation of Receiving Water Limitation C(2) of the Storm
4 Water Permit is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C.
5 § 1311(a).

6 266. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§
7 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged
8 above, Defendants are subject to an assessment of civil penalties for each and every
9 violation of the Clean Water Act since 20 April 2012.

10 267. An action for injunctive relief under the Clean Water Act is authorized by 33
11 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would
12 irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no
13 plain, speedy, or adequate remedy at law.

14 WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth
15 hereafter.

16 **FIFTH CAUSE OF ACTION**

17 **Defendants' Failure to Adequately Develop, Implement, and/or Revise a Storm** 18 **Water Pollution Prevention Plan in Violation of the Storm Water Permit and the** 19 **Clean Water Act.**

20 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

21 268. Waterkeeper incorporates the allegations contained in the above paragraphs
22 and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

23 269. Waterkeeper is informed and believes, and thereon alleges, that Defendants
24 failed and continue to fail to adequately develop a SWPPP for the A and A Facility, in
25 violation of Section A and Provision E(2) of the Storm Water Permit.

26 270. Waterkeeper is informed and believes, and thereon alleges, that Defendants
27 failed and continue to fail to adequately implement a SWPPP for the A and A Facility, in
28 violation of Section A and Provision E(2) of the Storm Water Permit.

271. Waterkeeper is informed and believes, and thereon alleges, that Defendants

1 failed and continue to fail to adequately revise a SWPPP for the A and A Facility, in
2 violation of Sections A(9) and A(10) of the Storm Water Permit.

3 272. Defendants have been in violation of Section A and Provision E(2) of the
4 Storm Water Permit for failing to develop, implement, and/or revise an adequate SWPPP
5 for the A and A Facility every day since at least 20 April 2012.

6 273. Defendants' violations of Section A and Provision E(2) of the Storm Water
7 Permit and the Clean Water Act are ongoing and continuous.

8 274. Defendants will continue to be in violation of Section A and Provision E(2)
9 of the Storm Water Permit and the Clean Water Act each and every day Defendants
10 operate the A and A Facility without an adequately developed, implemented, and/or
11 revised SWPPP for the A and A Facility.

12 275. Each and every violation of the Storm Water Permit's SWPPP requirements
13 at the A and A Facility is a separate and distinct violation of the Clean Water Act.

14 276. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§
15 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged
16 above, Defendants are subject to an assessment of civil penalties for each and every
17 violation of the Clean Water Act since 20 April 2012.

18 277. An action for injunctive relief under the Clean Water Act is authorized by 33
19 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would
20 irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no
21 plain, speedy, or adequate remedy at law.

22 WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth
23 hereafter.

24 **SIXTH CAUSE OF ACTION**

25 **Defendants' Failure to Adequately Develop, Implement, and/or Revise a**
26 **Monitoring and Reporting Program in Violation of the Storm Water Permit and**
27 **the Clean Water Act.**

28 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

278. Waterkeeper incorporates the allegations contained in the above paragraphs

1 and in the Notice Letter, attached as Exhibit A, as though fully set forth herein.

2 279. Waterkeeper is informed and believes, and thereon alleges, that Defendants
3 failed and continue to fail to adequately develop an M&RP for the A and A Facility, in
4 violation of Section B and Provision E(3) of the Storm Water Permit.

5 280. Waterkeeper is informed and believes, and thereon alleges, that Defendants
6 failed and continue to fail to adequately implement an M&RP for the A and A Facility, in
7 violation of Section B and Provision E(3) of the Storm Water Permit.

8 281. Waterkeeper is informed and believes, and thereon alleges, that Defendants
9 failed and continue to fail to adequately revise an M&RP for the A and A Facility, in
10 violation of Section B and Provision E(3) of the Storm Water Permit.

11 282. Defendants have been in violation of Section B and Provision E(3) of the
12 Storm Water Permit for their failure to develop, implement, and/or revise an adequate
13 M&RP for the A and A Facility every day since at least 20 April 2012.

14 283. Defendants' violations of Section B and Provision E(3) of the Storm Water
15 Permit and the Clean Water Act are ongoing and continuous.

16 284. Defendants will continue to be in violation of Section B and Provision E(3)
17 the Storm Water Permit and the Clean Water Act each and every day Defendants operate
18 the A and A Facility without an adequately developed, implemented, and/or revised
19 M&RP for the A and A Facility.

20 285. Each and every violation of the Storm Water Permit's M&RP requirements
21 at the A and A Facility is a separate and distinct violation of the Clean Water Act.

22 286. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§
23 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged
24 above, Defendants are subject to an assessment of civil penalties for each and every
25 violation of the Clean Water Act since 15 October 2009.

26 287. An action for injunctive relief under the Clean Water Act is authorized by 33
27 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would
28 irreparably harm Waterkeeper and its members, for which harm Waterkeeper has no

1 plain, speedy, or adequate remedy at law.

2 WHEREFORE, Waterkeeper prays for judgment against Defendants as set forth
3 hereafter.

4 **VII. RELIEF REQUESTED**

5 288. Waterkeeper respectfully requests that this Court grant the following relief:

6 a. A Court order declaring Defendants to have violated and to be in
7 violation of the Storm Water Permit and Section 301(a) of the CWA, 33 U.S.C. §
8 1311(a), for their violations of the substantive and procedural requirements of the Storm
9 Water Permit;

10 b. A Court order enjoining Defendants from violating the substantive
11 and procedural requirements of the Storm Water Permit and the Clean Water Act;

12 c. A Court order assessing civil monetary penalties for each violation of
13 the Clean Water Act at \$37,500 per day per violation for violations occurring since 20
14 April 2012, as permitted by 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4;

15 d. A Court order awarding Waterkeeper its reasonable costs of this suit,
16 including attorney, witness, expert, and consultant fees, as permitted by Section 505(d) of
17 the Clean Water Act, 33 U.S.C. § 1365(d);

18 e. Any other relief as this Court may deem appropriate.

19 Dated: June 8, 2015

Respectfully submitted,

LAWYERS FOR CLEAN WATER, INC.

21
22 /s/ Drevet Hunt

23 Drevet Hunt

24 Attorney for Plaintiff

25 Los Angeles Waterkeeper
26
27
28